

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA

v.

KAYRICKA WORTHAM,

Defendant.

CRIMINAL ACTION FILE

NO. 1:23-cr-0131-TCB

O R D E R

This case comes before the Court on Magistrate Judge Regina D. Cannon's Final Report and Recommendation (the "R&R") [98].

Defendant Kayricka Wortham has not filed objections to the R&R.

On July 11, 2023, Wortham filed a motion [46] for dismissal, vacate and release and a motion [46-1] to dismiss for failure to prove jurisdiction. On December 12, Magistrate Judge Cannon issued the R&R, recommending that the Court deny the motions. Wortham subsequently filed five motions [100; 109; 118; 158; 188] for extension of time to file a response to the R&R, all of which the Court granted. In its most recent order [189] granting an extension, the Court informed

Wortham that no more extensions will be granted and that she must file objections by December 18, 2024. Wortham did not timely file objections.

A district judge has a duty to conduct a “careful and complete” review of a magistrate judge’s R&R. *Williams v. Wainwright*, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. Unit B 1982) (en banc)). This review may take different forms, however, depending on whether there are objections to the R&R. The district judge must “make a de novo determination of those portions of the [R&R] to which objection is made.” 28 U.S.C. § 636(b)(1)(C). In contrast, those portions of the R&R to which no objection is made need only be reviewed for clear error. *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006) (per curiam).¹

¹ *Macort* dealt only with the standard of review to be applied to a magistrate’s factual findings, but the Supreme Court has indicated that there is no reason for the district court to apply a different standard to a magistrate’s legal conclusions. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Thus, district courts in this circuit have routinely reviewed both legal and factual conclusions for clear error. *See Tauber v. Barnhart*, 438 F. Supp. 2d 1366, 1373–74 (N.D. Ga. 2006) (collecting cases). This standard of review differs from appellate review where findings of fact and conclusions of law are analyzed under different standards. *See Monroe v. Thigpen*, 932 F.2d 1437, 1440 (11th Cir. 1991) (holding that when a magistrate’s findings of fact are adopted by the district court without objection, they are reviewed on appeal

After conducting a complete and careful review of the R&R, the district judge may accept, reject, or modify the magistrate judge's findings and recommendations. 28 U.S.C. § 636(b)(1)(C); *Williams*, 681 F.2d at 732. The district judge “may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1)(C).

On December 16, Wortham filed a motion [207] for reconsideration of extension of time to file a response to the R&R. Wortham asked the Court to reconsider its order [189] granting a thirty-day extension because she requested 120 days in her motion [188] for extension of time to object to the R&R. Wortham also requested that the Court grant her motion [179] to stay legal proceedings if her motion [207] for reconsideration is denied. Wortham asks the Court to grant the stay “without a set number of days” or “for at least 120 additional days,” to obtain counsel and to file objections to the R&R. One year has lapsed since Magistrate Judge Cannon issued the R&R. The Court previously informed Wortham that no further extensions will be granted to file

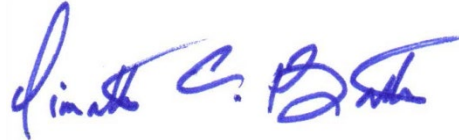
under a “plain error standard” while questions of law always remain subject to de novo review).

objections to the R&R. Despite ample time, Wortham has failed to file objections to the R&R.

The Court has conducted a careful and complete review of the R&R and finds no clear error in its factual or legal conclusions.

Accordingly, the Court adopts as its Order the R&R [98]. Further, because Wortham has failed to comply with the Court's order [189] to file objections to the R&R by December 18, 2024, her motion [207] for reconsideration and motion [179] to stay legal proceedings are DENIED.

IT IS SO ORDERED this 20th day of December, 2024.

A handwritten signature in blue ink, reading "Timothy C. Batten, Sr.", positioned above a horizontal line.

Timothy C. Batten, Sr.
Chief United States District Judge